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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,399	04/17/2000	Christopher J. Chase	03493.86913	1414

26652 7590 06/25/2004

AT&T CORP.
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MIDDLETOWN, NJ 07748

EXAMINER

HOM, SHICK C

ART UNIT	PAPER NUMBER
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2666

34

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/551,399

Applicant(s)

CHASE ET AL.

Examiner

Shick C Horn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32,34,35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32,34,35 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>33</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/12/04 have been fully considered but they are not persuasive. In page 5 lines 17-20 of the response, applicant argued that Han does not teach expressly or inherently "frame relay data packets" is not persuasive because Han teaches switching IP data packet (see col. 1 lines 33-53 which recite the IP packet traffic and the IP switch) and the IP data packets clearly reads on the frame relay data packets. Examiner agrees that ATM is not synonymous with "frame relay;" however it is not the examiner's intention to read the ATM as being synonymous with frame relay, nor is such a limitation recited in the claims; the ATM switch corresponds to the fast packet switch and not frame relay. Further, applicant argued that the ATM switches do not "translate user data within ... frame relay data packets" is not persuasive because Han in col. 5 lines 3-10 recite translating the IP addresses into ATM addresses which clearly reads on translating the frame relay data packets into a fast packet address as recited in claim 32.

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Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fast packet switch coupled to the customer premises equipment, the permanent virtual circuit, the frame relay data packet, the address translation circuitry responding to service categories and the quality of service responding to layer 4 data must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in

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the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual

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Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 32, 34, 35, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Han (6,009,097).

Regarding claim 32:

Han discloses the network comprising: customer premises equipment (see the network and customer equipment shown in Fig. 1 and recited in the abstract); a fast packet switch coupled to the customer premises equipment (see the ATM switch and router in Figs. 1 and 4) with at least one permanent virtual circuit (see col. 4 lines 53-61 which recite the cut-through paths being Permanent Virtual Paths) and receiving a plurality of frame relay data packets, the fast packet switch including address translation circuitry for translating user data within at least one of the frame relay data packets into a fast packet address (see col. 1 lines 33-53 where the IP packet traffic corresponds to the frame relay data packets, col. 5 lines 3-10 which recite

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translating IP addresses into ATM addresses corresponds to translating user data in frame relay packets to fast packet address); wherein the translation circuitry is responsive to a plurality of different service categories and configured to determine a quality of service responsive to layer 4 data (see col. 2 lines 31-53 which recite routing traffic to destination having similar quality of service, col. 3 lines 42-49 which recite packets being handled using IP network layer 3 packet forwarding clearly anticipate the service being responsive to layer 4 data, and col. 6 line 44 to col. 7 line 17 which recite the router performing layer 3 routing function using destination addresses, each assigned to a QOS).

Regarding claim 34:

Han discloses wherein the translation circuitry is responsive to Internet protocol (IP) data within the frame relay data packets (col. 2 lines 31-53 and col. 6 line 44 to col. 7 line 17).

Regarding claim 35:

Han discloses wherein the translation circuitry is responsive to layer 3 Internet protocol (IP) data (col. 3 lines 5-14).

Regarding claim 37:

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Han discloses wherein the fast packet switch is an asynchronous transfer mode protocol based switch (col. 6 line 44 to col. 7 line 17).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bertin et al. disclose method and system for minimizing the connection set up time in high speed packet switching networks.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for formal communications;
please mark "EXPEDITED PROCEDURE")

Or:

(for informal or draft communications, please
label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal
Park II, 2121 Crystal Drive, Arlington. VA., Sixth
Floor (Receptionist).

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Shick Hom
whose telephone number is (703) 305-4742. The examiner's
regular work schedule is Monday to Friday from 8:00 am to 5:30
pm EST and out of office on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at (703) 308-5463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



DANGSTON
PRIMARY EXAMINER

SH

June 17, 2004